PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)
	)
Garrison, et al.	)
	)
Serial No. **09/010,193**	) Examiner: **S. Rimell**
	)
Filed: **January 21, 1998**	)
	) Art Unit: **2175**
For: **DUAL SOURCE REMITTANCE PROCESSING**	)

CORRECTED APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
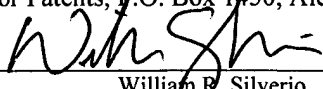P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This corrected Appeal Brief is submitted in response to the Notification of Non-Compliant Appeal Brief mailed November 29, 2005. In particular, the present appeal brief includes Claim 49, inadvertently omitted in the Corrected Appeal Brief filed September 2, 2005.

I. REAL PARTY IN INTEREST

CheckFree Corporation is the real party in interest, Reel 9526, Frame 0624.

II. RELATED APPEALS AND INTERFERENCES

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The Applicant is not aware of any related appeals or interferences.

III. STATUS OF CLAIMS

Claims 1-4, 6-7, 11, 13-15, 19-21, 25-31, 35-44 and 47-50 are pending. Claims 5, 8-10, 12, 16-18, 22-24, 32-34, 45-46 and 51-55 have been previously cancelled. Claims 1-4, 6-7, 11, 13-15, 19-21, 25-31, 35, 36, 39-44 and 47-50 are under appeal.

IV. STATUS OF AMENDMENTS

No amendments were filed after March 23, 2004, the date the final rejection was mailed.

V. SUMMARY OF INVENTION

The present application is directed to techniques for receiving respective sets of payment requests of multiple payors from a plurality of different independent sources (page 9, lines 16-19). Each source transmits a different set of payment requests to a service provider (page 16, lines 15 and 16), which then processes these requests to direct payments to the applicable payees.

This invention, as recited in independent claim 1, and with reference to Figures 1, 2A and 2B, electronically processes bill payment requests. As described on pages 9-11 and in the preferred embodiment description on page 15, line 8, through page 19, line 5, a respective set of payment requests are received electronically (for example via input port 10) from plurality of independent sources (for example from source systems 7A-C). The set of payment requests corresponds to a respective plurality of payors (for example consumers represented by consumer systems A1-AN, B1-BM, and C1-CP) requesting payments to one or more payees (for example merchants represented by merchant systems 4). The payment requests are processed at a single

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remittance processing system (for example the remittance payment processor (RPP) 3) having a

database including payee information (for example the merchant database 18). The processing

(for example by RPP3) generates payment directions for paying each of a plurality of payees (for

example merchants represented by merchant systems 4) by a selected on of electronically

crediting a bank account of the applicable payee and generating a check or draft payable to the

applicable payee, and the electronic crediting is only selectable if the database includes payee

information associated with the applicable payee, as disclosed in relation to the preferred

embodiment on page 18, lines 17-20.

As recited in independent claim 2, and with reference to Figures 1, 2A and 2B, and in the

preferred embodiment description on pages 9-11, and page 15, line 8, through page 19, line 5,

with emphasis on page 17, lines 9-18, a respective set of payment requests are received

electronically (for example via input port 10) from a plurality of independent sources (for

example from source systems 7A-C). Each set requests payments to one or more of a plurality of

payees (for example merchants represented by merchant systems 4) on behalf of a respective

plurality of payors (for example consumers represented by consumer systems A1-AN, B1-BM,

and C1-CP). The payment requests are processed at a single remittance processing system (for

example the remittance payment processor (RPP) 3) having database including payee information

(for example the merchant database 18) for the plurality of payees. The processing (for example

by RPP 3) generates payment directions for paying each of the plurality of payees.

A first of the respective sets of payment requests (for example from one of the source

systems 7A-C) is received in a first format, while a second of the respective sets of payment

requests (for example from another of the source systems 7A-C) is received in a second format,

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different from the first format. The processing (for example by the RPP 3) includes normalizing the first and the second respective sets of payment requests to correspond to a third format, and also includes generating the payment directions based upon the normalized first and second respective payment requests and the payee information.

As recited in claim 3, which is dependent from claim 1, a first of the respective sets of payment requests is received in a first format, and is normalized to correspond to a normalized format. The payment directions are generated based upon the normalized requests.

As required by claim 4, dependent upon claim 1, and described in relation to the preferred embodiment on page 16, lines 16-19, each of the respective sets of payment requests is received (for example from the applicable source system 7A, or 7B or 7C) as a batch file.

This invention, as recited in independent claims 6 and 27, and with reference to Figure 2B, and page 18, lines 1-16, a respective set of payment requests are received electronically (for example via input port 10) from each of a plurality of independent sources (for example from source systems 7A-C). The set of payment requests corresponds to a respective plurality of payors (for example consumers represented by consumer systems A1-AN, B1-BM, and C1-CP) requesting payments to one or more of a plurality of payees (for example merchants represented by merchant systems 4). The set of payment requests received from a first of the plurality of independent sources is processed, and the set of payment requests received from a second of the plurality of independent sources is processed.

The payment requests are processed at a single remittance processing system (for example the remittance payment processor (RPP) 3) having a database including payee information (for example the merchant database 18) for the plurality of payees. The processing

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(for example by RPP 3) is based upon the stored payee information. The processing of the set of payment requests of the first independent source generated first payment instructions. The processing of the set of payment request of the second independent source generated second payment instructions.

The generated first payment instructions are processed at the single remittance processing system to generate first payment directions to direct payment of the one or more payees in accordance with the set of payment requests received from the first independent source. The generated second payment instructions are processed at the second independent source to generate second payment directions to direct payment of the one or more payees in accordance with the set of payment requests received from the second independent source. This, as shown in Figure 2B, the payment instructions are generated by the RPP3 and the payment directions are generated by the payment processor 24, which may be located at the source from which a particular set of payment requests is received.

As recited in claim 7, dependent from claim 1, and discussed in the context of the preferred embodiment on page 22, line 5, through page 25, line 16 with reference to Figures 3-4, each of the received payment requests (for example a payment request of one of the consumers represented in the set of consumer systems A1-AN, B1-BM, or C1-CP received from the applicable source system 7A, or 7B or 7C by the RPP 3) includes payor payment information including at least one of a name, a street address, a city and state, and a zip code of the payee (for example one of the merchants represented by merchant systems 4) to be paid. At least a portion of the payor payment information, other than any received zip code, is processed (for example by the RPP processor 17) to identify an eleven-digit zip code for the payee (for example one of the

merchants represented by merchant systems 4) to be paid. The database (for example the RPP merchant database 18) is accessed based on the identified eleven digit zip code to locate the applicable payee information.

According to claim 11 and as discussed in the context of the preferred embodiment on page 19, line 12-14 and page 25, line 17, through page 28, line 2, with reference to Figure 5, a first of the plurality of payees (for example on of the merchants represented by merchant systems 4) has a plurality of payment remittance centers and a first of the payment requests includes information identifying a payor account number with the first payee (for example an account number of one of the consumers represented in the set of consumer systems A1-AN, or B1-BM, or C1-CP whose request was received from the applicable source system 7A, or 7B or 7C by the RPP 3). The first received payment request is processed to identify one or more alphanumeric characters in the account number, and to select one of the plurality of remittance centers based upon the identified alphanumeric characters (for example by the RPP 3). The generated payment directions direct payment advice to the one remittance center of the first payee.

As recited in claim 13, dependent from claim 1, and described in the context of the preferred embodiment on page 28, line 3, through 31, line 5, with reference to Figure 6, a first of the received payment requests (for example the payment requests of each of the consumers represented in the set of consumer systems A1-AN, or B1-BM, or C1-CP whose request is received from the applicable source system 7A, or 7B or 7C by the RPP 3) includes a payor's account number with a first of the plurality of payees (for example on of the merchants represented by merchant systems 4). The alteration rules corresponding to a payee account number format are stored (for example in the RPP processor 17) into an altered account number

including a portion of at least one of a payor's name, a payor's street address and a payor's zip

code according to the alteration rules.

As recited in claim 14, dependent from claim 13, the altered account number is

transmitted to the first payee (for example the applicable merchant represented by merchant

systems 4) to notify the first payee of the directed payment.

As recited in claim 15, dependent from claim 13, validation rules corresponding to payee

values for fields of the account number are stored (for example in the RPP merchant database

18), and a determination is made (for example by the RPP processor 17) if the payor's account

number conforms with the validation rules.

As recited in independent claim 35 and with reference to the preferred embodiment

described with reference to Figures 1, 2A and 2B, a system for processing payment information

includes one or more networks (for example the network of Figure 1 or the networks 1A-1C and

1D-1E shown in Figure 2A). A plurality of source stations (for example source systems 7A-7C)

are coupled to the one or more networks. Each source station includes programmed instructions

which case that source station to transmit a respective set of payment requests with each set

correlating a respective plurality of payors to a plurality of payees. Each request contains

payment information. A centralized remittance station (for example in the RPP 3) is coupled to

the one or more networks, and includes programmed instructions which cause it to receive the

respective sets of payment requests from the plurality of source stations (for example source

systems 7A-7C) via at least one of the one or more networks, and process the payment

information to generate payment directions for paying each of the plurality of payees (for

example the merchants represented by merchant systems 4) in accordance with the processed

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payment information, and by a selected on of electronically crediting a bank account of the

applicable payee and generating a check or draft payable to the applicable payee.

Independent claim 50 is directed to an electronic bill payment system for processing

payment requests. Claim 50 required, as disclosed at page 25, lines 12-16, addition of a record to

the database of records associated with a plurality of payees for each applicable payees not

associated with the stored records.

In view of the above, a further description of the elements to the system claims 19-21, 25-

31, and 36-40 and software claims 41-44 and 47-49 is considered to be unnecessary.

VI. ISSUES

Whether claims 1-4, 6, 11, 13-15, 19-21, 28-31, 35, 39-44, and 48-50 are anticipated by

Kolling under 35 U.S.C. § 102(b), and whether claims 7, 25-27, 36, and 47 are obvious under 35

USC §103(a) over Kolling.

VII. BRIEF DESCRIPTION OF THE REFERENCE

Kolling is directed to an electronic bill payment system. More particularly, Kolling

discloses an electronic bill payment system in which all participants agree to a set of protocols,

including data exchange, messaging, and operating protocols (see column 11, lines 5-14, and

column 14, lines 25-28). Kolling does not disclose paper, i.e., check or draft payments. Rather,

Kolling discloses electronic debiting and crediting (see, for example, column 15, lines 47-50 and

column 19, lines 25-30). Kolling's is a closed payment system, where each biller (payee) must

have a unique identifier, which is characterized as a biller reference number (BRN) (see column

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15, lines 39-44). The BRN is utilized to access records in a universal biller reference file (UBF) 108 (see column 17, lines 15-34) that necessarily includes biller information for all billers that can be paid utilizing the Kolling system. That is, at the time of a payor's request to make a payment to a biller, information associated with that biller must already be stored in the UBF 108. As noted in column 18, lines 59-60, a payment record must include a BRN for the applicable biller. Thus, a record must necessarily be stored in the file 108 for each biller associated with the BRN. Figure 9, and beginning at column 21, line 38, details how a biller becomes a participating biller with an assigned BRM and associated record in the UBF 108.

VIII. THE REJECTION

In the latest Final Official Action dated March 23, 2004, pending claims 1-4, 6, 11, 13-15, 19-21, 27-31, 35, 39-44, and 48-50 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kolling (U.S. Patent No. 5,920,847), and claims 7, 25-26, 36, and 47 stand rejected under 35 USC § 103(a) over Kolling.

Regarding independent claims 1, 19, 35, 41 and 50, the Examiner solely relies upon Figure 4 of Kolling in rejecting the claims. The Examiner argues that Bank C, which the Examiner contends corresponds to the claimed plurality of independent sources, "can transmit a set of requests rather than a single request. For example, all of the requests which are transmitted during a single business day would correspond to a set of requests from a plurality of payors (customers) directed to a plurality of payees (billers). All of the transactions within a single hour or other time period could be similarly characterizes as being a set of payment requests." The Examiner provides no textual support in Kolling for this assertion.

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Regarding independent claims 2 and 42, the Examiner's sole argument is that a set of

payment requests "can be the set of payment requests that are transmitted during a normal

business day. Thus, a first set of payments would have a first format (first transaction date) and a

second set would have a second format (second transaction date) and a second set would have a

second format (second transaction date). When payment requests pass through the remittance

processing center (102), they are "normalized" in the same sense they are changed to a format

which includes payee data from the database (108)." Again, the Examiner provides no textual

support in Kolling for this assertion.

Regarding independent claim 6, the Examiner's sole reasoning for the rejection is "The

payment advice is the payment message sent from the remittance center (102) to the payee's bank

(Bank B)."

Regarding independent claim 21, and dependent claim 3, the Examiner argues, as can be

best understood, that a first transaction date is analogous to a first format, and that normalization

is achieved by "adding data to the payment request, such as by adding payee information from

the database (108) to the payment request so that they payment directions are addressed to Bank

B in order to pay the payee." Yet again, the Examiner provides no textual support for this

position.

Regarding independent claim 27, the Examiner relies upon Kolling's Figures 4 and 5,

column 17, lines 19-30, and column 18, line 59, through column 19, line 8. The column 17 text

describes the content of Kolling's universal biller reference file 108. The column 18 and 19 text

describes the contents of Kolling's payment method.

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IX. GROUPING OF CLAIMS

The invention is defined within independent claim groupings (i) 1, 3, 4, 7, 11, and 13-15,

(ii) 2, (iii) 6, (iv) 19-20, 25-26, and 28-31, (v) 21, (vi) 27, (vii) 35-36 and 39-40), (viii) 41, 43,

44, and 47-49, (ix) 42, and (x) 50. However, the claims of each independent claim grouping do

not stand or fall together. Claims 1 and 4 stand or fall together, claims 19 and 20 stand or fall

together, and claims 41 and 44 stand or fall together. Claims 1-3, 7, 11, 13-15, 19, 21, 25-31, 35,

36, 39, 40-43, and 47-50 each require features which form an independent basis for allowance

and accordingly each of these claims stands of falls on their own.

X. ARGUMENT

Appellants respectfully traverse the rejections based on the prior art applied against the

claims now pending on appeal. As discussed below, it is respectfully submitted that the

Examiner has not met the burden of proof in establishing that the appealed claims are anticipated,

has not met the burden of proof in establishing that the appealed claims are obvious, has failed to

provide the required factual basis and reasonable rational for the rejections, has failed to apply art

which teaches or suggests the invention as claimed, has failed to properly construe the applied

art, and has failed to consider all recited claim limitations.

1. THE EXAMINER HAS FAILED TO ESTABLISH A PRIMA FACIE CASE

The initial burden of establishing a basis for denying patentability to a claimed invention

rests upon the examiner. In re Fine, 837 F. 2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re

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Thorpe, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985); In re Paisecki, 745 F.2d 1468, 223 USPQ 785 (Fed. Cir. 1984).

The limitations required by the claims cannot be ignored. See In re Wilson, 424 F.2d 1382, 165 USPQ 494 (CCPA 1970). All claim limitation, including those which are functional, must be considered. See In re Oelrich, 666 F.2d 578, 212 USPQ 323 (CCPA 1981). Hence, all words in a claim must be considered in deciding the patentability of that claim against the prior art. Each word in a claim must be given its proper meaning, as construed by a person skilled in the art. Where required to determine the scope of a recited term, the disclosure may be used. See In re Barr, 444 F.2d 588, 170 USPQ 330 (CCPA 1971).

The Examiner must provide sufficient factual basis or rationale as to how features of the invention recited in the claims are taught or suggested in the applied art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). That is, objective evidence must be presented by the Examiner in support of the rejection. Without such support, the rejection is improper per se.

It is respectfully submitted that the Examiner has failed to establish a prima facie case for the rejection. More particularly, the Examiner has failed to provide objective support or reasonable rationale for the rejections, has ignored limitations recited in the claims, and has applied art in a manner inconsistent with its teachings.

Each of independent claims 1, 19, 35, 41 and 50 require that a selection be made between electronic crediting of a bank account of the applicable payee and the generation of a check or draft payable to the applicable payee and the generation of a check or draft payable to the applicable payee. In the most recent Official Action the Examiner acknowledges that this feature

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has not been considered in rejecting the claims. In particular, the Examiner argues "[t]hese claims do not state that the act of selecting is an actual method step, but rather states that the electronic crediting or drafting are optional choices within the claim. These claims do not appear to be calling for actual method steps of selecting."

The Examiner's position is not understood, as each of claims 1, 19, 35, 41, and 50 expressly required that a selection between electronic crediting and generating a check or draft be made. Further, claims 1, 19, and 41 each requires that the electronic crediting be only selectable is the recited database includes information associated with the applicable payee. Discussed above, limitations required by claims cannot be ignored. Because the Examiner, admittedly, has ignored certain recited limitations, the Examiner has failed to meet his burden and thus the rejection of claims 1, 19, 35, 41, and 50 is improper.

Additionally, independent claim 50 not only required selection between electronically crediting bank account of the applicable payee and generating a check/draft payable to the applicable payee, but also requires that a record be added to the database for each of the applicable payees to whom payment is requested to be made, if that payee is not associated with the stored records. The Examiner has failed to address this limitation in the rejection.

Kolling does not provide for a selection between electronic crediting and preparation of a check or draft. Furthermore, Kolling's universal biller reference file 108 necessarily includes biller information for all billers. As discussed above, Kolling's system is a closed system, where each biller must have a unique identifier (a BRN). The BRN is utilized to access records in the biller file 108. Thus, Kolling fails to disclose the required selection, or that electronic crediting is only selected if the database includes payee information associated with the applicable payee.

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Further regarding independent claim 50, in Kolling, at the time a payor requests a payment be made, biller information must already be stored in the universal biller reference file 108. Hence, Kolling has no ability to add a record to file 108, based on a request to pay a biller for whom no record already exists in the file 108. As discussed in column 18, lines 59-60, the payment record must include a BRN for the applicable biller, and hence, a record must necessarily be stored in the file 108 for the biller associated with the BRN. Column 21, line 38, et seq., and Figure 9, details how a biller becomes a participating biller with an assigned BRN and associated record in UBF 108. Nowhere does Kolling disclose that a biller may become a participating biller based upon a payee requesting that biller be paid. Kolling further discloses that if the BRN in the request for payment is determined by the consumer's bank (Bank C) to be invalid, the payment request is rejected. This, a biller must have a valid BRN in order for a payment to be made to that biller.

Each of independent claims 2, 21, and 42 required that payment requests in the sets received from the different sources have different formats. It is further required that these requests be normalized and that the payment instructions or directions be generated based on the normalized requests.

As can best be understood, the Examiner contends that the different formats could be construed to be different transactions dates, and that the addition of data (e.g., payee information for database 108) to the payment requests prior to passing the payment request to the biller's Bank B, corresponds to the required normalization. In accordance with the common and ordinary dictionary meaning of format (see Microsoft Computer Dictionary, 5th Edition), the term "format" will be understood by those skilled in the art to mean an arrangement of data within a

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document file. Accordingly, the addition of data will not result in a normalization of data received in different formats.

Furthermore, each of the above-referenced claims required that the normalized payment requests be processed to generate the payment directions. As shown in Figure 4 of Kolling, the payment message transmitted from Bank C (i.e., payment message 124) is the same message received by Bank B. Hence, it would appear from Figure 4 that there is no additional data added to the payment message by the payment network. However, even if there were, it is respectfully submitted that nowhere does Kolling teach or even suggest that the payment messages received from different consumer banks are, or could be, differently formatted, or normalized. Rather, what Kolling describes is a system in which the protocols are preagreed, and must be adhered to (see, for example, column 14, lines 25-28). Thus, Kolling has no need for normalization of payment request received in different formats, because all payment requests are in a preagreed format.

Independent claims 6 and 27, as well as the other independent claims, require a respective set of payment requests received from each of a plurality of independent sources. Contrary to the Examiner's assertions, Kolling does not disclose sets of payment requests. Rather, Kolling only discloses receipt of single payment requests. Furthermore, claims 6 and 27 additionally require a centralized system or processor which processes the respective sets of payment requests to generate payment instructions. These generated payment instructions are then further processed by the centralized processor to generate the payment directions for directing payment to the applicable payee, or are transmitted and processed by the applicable independent source processor to generate the payment directives. The Examiner has simply failed to address this

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feature. Kolling in no way can be construed to teach that payment directions are generated at a source from which a particular set of payment requests is received.

Dependent claims 7, 25, 26, 36, and 47 require that payment information be used to identify an eleven-digit zip code, and that the identified zip code be used to access or retrieve a payee record. Kolling explicitly required the use of a unique BRN to access the payee file 108, as discussed above. Thus, Kolling lacks any disclosure of processing a portion of information in a received payment request to identify a zip code based upon which a payee record can be retrieved or accessed. The Examiner's argument that "forming the BRN with 11 digits instead of 9 would have been obvious. … since Kollings et al allows the BRN to be of any length" is simply not understood. At best, it appears that the Examiner has filed to properly construe these claims.

Dependent claims 11, 28-30, 40 and 48 require identifying characters of an account number or processing a received account number to select or identify a single delivery point to which payment advice is directed. In rejecting these claims the Examiner argues "each of the payees has one or more remittance centers, which are the payee's bank (Bank B). Each of the payment requests includes a payor account number with the first payee (the Biller reference number, "BRN" provided in the original bill to the payor, col. 15, line 47). As described in col. 17, lines 19-30, the BRN is a database key, and is used to look up a Bank ID or "BID" for the biller's bank. Thus, the alphanumeric characters (numbers) in the BRN are read by the remittance center (102) and selection is then made for a payee remittance center (The Biller's Bank B) by looming up the ID for Bank B in the database. Payments are then directed to the payee's remittance center (Bank B)."

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Kolling lacks any description of the limitations of claims 11, 28-30, 40 and 48. Further, the Examiner's argument cannot be reasonable understood, as the relied upon BRN (not the payor's account number with the biller) is utilized to access the biller's bank ID, to thereby select the applicable biller's bank.

Claims 13-15, 31, 39 and 49, require transforming the account number included in a payment request into an altered account number according to alteration riles and/or validating a received or altered account number according to validation rules. The Examiner argues the "processor at remittance center (102) stores programming instructions which cause the payment message to be altered by adding a payee bank ID (BID) to the account number data and identification data in the original payment message (col. 16, lines 43-53). The message is this transformed by this addition. The transformed message includes a payor name (source of funds, col. 15, line 59) which existed in the original message before it was transformed." The Examiner also relies upon text in column 16, lines 39-24.

It is respectfully submitted that Kolling fails to teach or suggest validating and/or altering an account number in a received payment request in the manner recited. The references text in columns 15 and 16 lacks any suggestion of the required limitations. Rather, as described in the references text in column 16, there is no transformation whatsoever of the information in message 124 by the payment network. Furthermore, it appears from the description in the referenced text in column 15 (which, it should be noted, related to the consumer's bank, not the payment network) that the C-B account number included in the order 122 is identical to that included in the payment message 124, which passes from Bank C to Bank B.

It should be apparent from the above that the Examiner has not established a prima facie

basis for the rejection of claims 1-4, 6, 7, 11, 13-15, 19-21, 25-31, 35, 36, 39-44, and 47-50 in the

Final Official Action.

2. THE APPLIED REFERENCES FAIL TO TEACH OR SUGGEST THE CLAIMED INVENTION

Anticipation, under 35 U.S.C. § 102, required that each element of the claim in issue be

found, either expressly described or under principles of inherency, in a single prior art reference.

Although anticipation required only that the claim under attack "read on " something disclosed in

the reference, all limitations of the claim must be found in the reference, of "fully met" by it. See

Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983).

Inherency requires certainty, not speculation. In re Rijckaert, 9F3rd 1531, 28 USPQ2d

1955 (Fed. Cir. 1993); In re King, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986); W. L. Gore &

Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983); In re Oelrich,

666 F.2d 578, 212 USPQ 323 (CCPA 1981); In re Wilding, 535 F.2d 631, 190 USPQ 59 (CCPA

1976). Objective evidence must be relied upon to defeat the patentability of the claimed

invention. Ex parte Natale, 11 USPQ2d 1222 (BPAI 1988).

In rejecting claims under 35 U.S.C. 103(a), it is incumbent upon the Examiner to

establish a factual basis to support the legal conclusion of obviousness. Stratoflex, Inc. v.

Aeroquip Corp., 218 USPQ 871 (Fed. Cir. 1983); In re Warner, 154 USPQ 173 (CCPA 1967). It

is also incumbent upon the Examiner to provide a basis in fact and/or cogent technical reasoning

to support the conclusion that one having ordinary skill in the art would have been motivated to

combine references to arrive at a claimed invention. Uniroyal, Inc. v. Rudkin-Wiley Corp., 5 USPQ2d 1434 (Fed. Cir. 1988). In so doing, the Examiner is required to make the factual determinations set forth in Graham v. John Deere Co. of Kansas City, 148 USPQ 459 (1966), and to provide a reason why one having ordinary skill in the art would have been led to modify the prior art reference to arrive at the claimed invention. Ashland Oil, Inc. v. Delta Resins & Refactories, Inc., 227 USPQ 657 (Fed. Cir. 1985).

Such a reason must stem from some teaching, suggestion or inference in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley, 5 USPQ2d 1434 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins and Refactories, Inc., 227 USPQ 657 (Fed. Cir 1985); ACD Hospital Systems, Inc. v. Montefiore Hospital, 221 USPQ 929 (Fed. Cir. 1984); In re Sernaker, 217 USPQ 1 (Fed. Cir. 1983). Inherency requires certainty, not speculation. In re Rijckaert, 28 USPQ2d 1955 (Fed. Cir. 19923); In re King, 231 USPQ 136 (Fed. Cir. 1986); W. L. Gore & Associates, Inc., v. Garlock, Inc., 220 USPQ 303 (Fed. Cir. 1983); In re Oelrich, 212 USPQ 323 (CCPA 1981); In re Wilding, 190 USPQ 59 (CCPA 1976). Objective evidence must be relied upon to defeat the patentability of the claimed invention. Ex parte Natale, 11 USPQ2d 1222 (BPAI 1988).

In determining obviousness, the inquiry is not whether each element existed in the prior art, but whether the prior art made obvious the invention as a whole for which patentability is claimed. Hartness Int'l, Inc. v. Simplimatic Eng'g Co., 2 USPQ2d 1826 (Fed. Cir. 1987). It is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of the other parts necessary to the full appreciated of what such reference fairly suggests to one of ordinary skill in the art. In re Wesslau, 147 USPQ 391 (CCPA

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1951). Piecemal reconstruction of prior art patents is improper, In re Kamm, 172 USPQ 298 (CCPA 1972). The Examiner must give adequate consideration to the particular problems and solution addressed by the claimed invention. Northern Telecom, Inc. v. Datapoint Corp., 15 USPQ2d 1321 (Fed. Cir. 1990); In re Rothermel, 125 USPQ 328 (CCPA 1960).

The fact that the prior art could be modified so as to result in the combination defined by the claims does not make the modification obvious unless the prior art suggests the desirability of the modification. In re Deminski, 230 USPQ 313 (Fed. Cir.) 1986). The test is what the combined teachings would have suggested to those of ordinary skill in the art. In re Keller, 208 USPQ 817 (CCPA 1981). Simplicity and hindsight are not proper criteria for resolving obviousness, In re Warner, supra. Furthermore, as the Federal circuit recently reiterated, reliance on common knowledge and/or common sense also cannot be the basis of finding obviousness (See In re Lee, 61 USPQ2d 1430 (Fed. Cir. 2002)). The deficiencies in the applied art cannot be remedied by general conclusions which, in view of the disclosure in the present application, may appear to be common sensible.

The proper approach to the issue of obviousness is whether the hypothetical person of ordinary skill in the art, familiar with the references, would have found it obvious to make a structure corresponding to what is claimed. In re Keller, 208 USPQ 871 (CCPA 1981); In re Sernaker, 217 USPQ 1 (Fed. Cir. 1983). Hindsight obviousness after the invention has been made is not the test. In re Carroll, 202 USPQ 571 (CCPA 1979). The reference, viewed by itself and not in retrospect, must suggest doing what applicant has done. In re Shaffer, 108 USPQ 326 (CCPA 1956); In re Skoll, 187 USPQ 481 (CCPA 1975).

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Again, the issue is not whether is it within the skill of the artisan to make the proposed

modification but, rather, whether a person of ordinary skill in the art, upon consideration of the

references, would have found it obvious to do so. The fact that the prior art could be modified so

as to result in the combination defined by the claims would not have made the modification

obvious unless the prior art suggests the desirability of the modification. See in re Gordon, 221

USPQ 1125 (Fed. Cir. 1984), In re Deminski, 230 USPQ 313 (Fed. Cir. 1986), In re Keller,

supra. And In re Laskowski, 10 USPQ2d 1397 (CAFC 1989).

As discussed above in detail, Kolling fails to teach or suggest the limitations any of the

independent claims. In particular, Kolling does not teach or suggest respective sets of payment

requests, as required by each claim, nor a selection between electronic crediting of bank account

and generating of a check or draft, as required by independent claims 1, 19, 35, 41, and 50. Also,

Kolling does not teach or suggest adding a record to a database for each applicable payee to

whom payment is request to be made, as required by independent claim 50. Kolling, likewise,

does not teach or suggest the requirement of claims 2, 21, and 42 or receipt of sets of payment

requests from different independent sources having different formats, normalizing the requests,

and generating payment instructions or directions based on the normalized requests. Kolling also

does not teach or suggest the requirement of independent claims 6 and 27 that a payment

processor for generating payment directions be located at the source from which a particular set

of payment requests is received.

Also, as will be understood from the discussion above, Kolling also fails to teach or

suggest requirements of various ones of the dependent claims.

In view of the above, it is respectfully submitted that Kolling fails to teach or suggest the invention as recited in the pending claims.

3. THE EXAMINER HAS NOT REASONABLY CONSIDERED WHAT IS DISCLOSED BY THE APPLIED REFERENCE, HAS IGNORED CLAIM LIMITATIONS AND HAS REJECTED THE CLAIMS BASED ON AN IMPROPER HINDSIGHT RECONSTRUCTION OF THE CLAIMED INVENTION

In rejecting claims, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); In re Warner, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967). The Examiner is required to make the factual determinations (see e.g. Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 148 USPQ 459 (1966)), and to provide a reason for the rejection (see e.g. Ashland Oil, Inc. v. Delta Resins and Refractories, Inc., 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985). Such a reason must stem from some teaching or inference in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins and Refractories, Inc., 776 F.2d 281, 227 USPW 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984); In re Sernaker, 702 F.2d 989, 217 USPQ 1 (Fed. Cir. 1983). Inherency requires certainty, not speculation. In re Rijckaert, 9 F.3rd 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); In re King, 801 F.2d 1324, 231 USPW 136 (Fed. Cir 1986); W. L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983); In re Oelrich, 666 F.2d 578, 212 USPQ 323 (CCPA

1981); In re Wilding, 535 F.2d 631, 190 USPQ 59 (CCPA 1976). Objective evidence must be

relied upon to defeat the patentability of the claimed invention. Ex parte Natale, 11 USPQ2d

1222 (BPAI 1988).

It is impermissible to pick up and choose from any one reference only so much of it as

will support a given position, to the exclusion of other parts necessary to the full appreciation of

what such reference fairly suggests to one of ordinary skill in the art. In re Wesslau, 353 F.2d

238, 147 USPQ 391 (CCPA 1951). Piecemal reconstruction of prior art patents is improper, In

re Kamm, 452 F.2d 1052, 172 USPQ 298 (CCPA 1972). The Examiner must give adequate

consideration to the particular problems and solution addressed by the claimed invention.

Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 15 USPQ2d 1321 (Fed. Cir. 1990); In

re Rothermel, 276 F.2d 393, 125 USPQ 328 (CCPA 1960).

Simplicity and hindsight are not proper criteria for resolving obviousness, In re Warner,

379 F.2d 1011, 154 USPQ 173 (CCPA 1967). Hindsight after the invention has been made is not

the test. In re Carroll, 601 F.2d 1184, 202 USPQ 571 (CCPA 1979). The reference, viewed by

itself and not in retrospect, must disclose doing what applicant has done. In re Shaffer, 229 F.2d

476, 108 USPQ 326 (CCPA 1956); In re Skoll, 523 F.2d 1392, 187 USPQ 481 (CCPA 1975).

CONCLUSION

It is respectfully submitted that the Examiner has (i) failed to establish a prima facie case

for rejection, (ii) ignored features explicitly required by the claims, (iii) failed to reasonably

construe that which is taught and suggested by the applied prior art combination, (iv) used

improper hindsight to reconstruct the invention recited in the rejected claims, (v) failed to apply

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art which teaches or suggests the claimed invention, and (vi) has applied art in a manner inconsistent with its teachings.

Thus, it is respectfully submitted that the rejection of claims 1-4, 6, 11, 13-15, 19-21, 27-31, 35, 39-44, and 48-50 under 35 U.S.C. § 102 (b) as being anticipated by Kolling, and of claims 7, 25-26, 36, and 47 under 35 USC § 103(a) as being obvious over Kolling, is improper.

In summary, Applicants respectfully submit that the applied art does not teach or suggest features recited in each of the rejected independent claims 1, 2, 6, 19, 21, 27, 35, 41, 42, and 50, upon which all other pending claims depend. It is further respectfully submitted that the applied art also fails to disclose numerous other features recited in the pending dependent claims. Accordingly, it is submitted that the applied art does not provide any teaching, or suggestion within its teachings, which would lead to the features (or advantages) of the instant invention, and the claims patentably define over the art.

The rejection of the claims is in error and reversal is clearly in order and is courteously solicited.

It is not believed that extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required is hereby authorized to be charged to Deposit Account No. 19-5029.

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APPENDIX OF CLAIMS UNDER APPEAL

1. A method for electronically processing bill payment requests, comprising:

electronically receiving at a single remittance processing system having a database including payee information, a respective set of payment requests from each of a plurality of independent sources, each set of payment requests being transmitted by a respective one of said independent sources and corresponding to a respective plurality of payors requesting payments to one or more payees; and

processing the received payment requests at said single remittance processing system to generate payment directions so as to direct payment of each of a plurality of payees by a selected one of electronically crediting a bank account of the applicable payee and generating a check or draft payable to the applicable payee;

wherein electronic crediting is only selectable if the database includes payee information associated with the applicable payee.

2. A method for electronically processing bill payment requests, comprising:

electronically receiving at a single remittance processing system having a database including payee information for a plurality of payees, a respective set of payment requests from each of a plurality of independent sources, each set of payment requests being transmitted by a respective one of said independent sources a requesting payments to one or more of the plurality of payees on behalf of a respective plurality of payors; and

processing the received payment requests at said single remittance processing system, to generate payment directions so as to direct payment of each of the plurality of payees;

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wherein a first of the respective sets of payment requests is received in a first format, and

a second of the respective sets of payment requests is received in a second format, different from

the first format; and

wherein the processing includes normalizing the first and the second respective sets of

payment requests to correspond to a third format and generating the payment directions based

upon the normalized first and second respective sets of payment requests and the payee

information.

3. The method of claim 1, wherein:

a first of the respective sets of payment requests is received in a first format; and

processing includes normalizing the first respective set of payment requests to correspond

to a normalized format and generating the payment directions based upon the normalizing first

respective set of payment requests.

4. The method of claim 1, wherein each of the respective sets of payment requests is received as

a batch file.

6. A method for electronically processing bill payment requests, comprising:

electronically receiving at a single remittance processing system having a database

including payee information for a plurality of payees, a respective set of payment request from

each of a plurality of independent sources, each set of payment requests being transmitted by a

respective one of said independent sources and corresponding to a respective plurality of payors

requesting payments to one or more of the plurality of payees;

processing, based on the payee information, the set of payment requests received from a

first of the plurality of independent sources at the single remittance processing system to generate

first payment instructions and the set of payment requests received from a second of the plurality

of independent sources at the single remittance processing system to generate second payment

instructions;

processing the generated first payment instructions at the single remittance processing

system to generate first payment directions so as to direct payment of the one or more payees in

accordance with the set of payment requests received from the first independent source, and the

generated second payment instructions at the second independent source to generate second

payment directions so as to direct payment of the one or more payees in accordance with the set

of payment requests received from the second independent source.

7. The method of claim 1, wherein each of the received payment requests includes payment

information including at least one of a name, a street address, a city and state, and a zip code of

the payee to be paid, and further comprising:

processing at least a portion of the payment information other than any received zip code,

to identify an eleven digit zip code for the payee to be paid; and

accessing the database based on the identified eleven digit zip code to locate the

applicable payee information.

11. The method of claim 1, wherein a first of the plurality of payees has a plurality of payment remittance centers and a first of the received payment requests includes information identifying a payor account number with the first payee, and further comprising:

processing the first received payment request to identify one or more alphanumeric characters in the account number and to select one of the plurality of remittance centers based upon the identified alphanumeric characters;

wherein the generated payment directions direct payment advice to the one remittance center of the first payee.

13. The method of claim 1, wherein a first of the received payment requests includes a payor's account number with a first of the plurality of payees, and further comprising:

storing alteration rules corresponding to a payee account number format; and

transforming the account number into an altered account number including a portion of at least one of a payor's name, a payor's street address and a payor's zip code according to the alteration rules.

14. The method of claim 13, further comprising:

transmitting the altered account number to the first payee to notify the first payee of the directed payment.

15. The method of claim 13, further comprising:

storing validation rules corresponding to payee values for fields of the account number;

and

determining if the payor's account number conforms with the validation rules.

19. A single remittance processing system for processing payment requests, comprising:

an input port electronically receiving a respective set of payor payment requests from

each of a plurality of separate sources, each set of payment requests being transmitted by a

respective one of said independent sources and corresponding to a respective plurality of payors

requesting payment to one of more payees;

a data base storing records associated with a plurality of payees; and

a processor in communication with the input port and the data base, and having

programmed instructions which cause the processor to process the respective sets of payment

requests to generate payment directions so as to direct payment of applicable payees by a selected

on of electronically crediting a bank account of the applicable payee and generating a check or

draft payable to the applicable payee;

wherein electronic crediting is only selectable if the applicable payee is one of the

plurality of payees.

20. The system of claim 19, wherein the input port receives a respective batch file from each of

the plurality of separate sources, each respective batch file containing a different one of the sets

of payment requests.

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21. A single remittance processing system for processing payment requests, comprising:

an input port electronically receiving a respective set of payor payment requests from each of a plurality of independent sources, each set of payment requests being transmitted by a respective one of said independent sources and requesting payment to one or more of a plurality of payees on behalf of a respective plurality of payors;

a data base storing payee records associated with the plurality of payees; and

a processor in communication with the input port and the data base, and having programmed instructions which cause the processor to process the respective sets of payment requests to generate payment directions so as to direct payment of applicable payees;

wherein the payment requests received from each of the plurality of independent sources are in a different format from that of the payment requests received from other of the plurality of independent sources;

wherein the processor is further configured to normalize the payment requests from each of the plurality of independent sources to correspond to a common format and to generate the payment directions based on the normalized payment requests and the stored payee records.

25. The system of claim 19, wherein:

each of the payment requests includes payment information identifying the applicable payee; and

the processor is further configured to process the payment information, excluding payee zip code information, to produce an eleven digit zip code associated with the applicable payee.

26. The system of claim 25, wherein the processor is further configured to retrieve payee records by accessing the database based on the eleven digit zip code.

27. A remittance processing system for processing payment requests, comprising:

a payment service provider database storing payee records associated with a plurality of payees; and

a payment service provider processor, in communication with the data base, and having programmed instructions which cause the processor (i) to receive a respective set of payor payment requests from each of a plurality of independent sources, each set of payment requests requesting payment to one or more of the plurality of payees on behalf of a respective plurality of payors, (ii) to process, based on the stored payee records, the set of payment requests received from a first of the plurality of independent sources to generate first payment instructions and the set of payment requests received from a second of the plurality of independent sources to generate payment instructions, (iii) to process the generated first payment instructions to generate first payment directions so as to direct payment of the applicable payees in accordance with the set of payment requests received from the first independent source, and (iv) to transmit the generated second payment instructions to the second independent source;

an independent source processor having programmed instructions which cause the processor to receive the transmitted second payment instructions and to process the received second payment instructions to generate second payment directions so as to direct payment of the applicable payees in accordance with the set of payment requests received from the second independent source.

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28. The system of claim 19, wherein:

one of the payment requests is a request to pay one of the plurality of payees having a

plurality of payment remittance centers, and the one payment request includes a payor account

number with the one payee; and

the processor is further configured to process the account number to identify one of the

plurality of payment remittance centers, and to generate the payment directions to direct payment

advice to the one payment remittance center.

29. The system of claim 28, wherein the processor is further configured to identify information

in the account number which corresponds to the one payment remittance center to identify the

one payment remittance center based up on the identified information.

30. The system of claim 29, wherein the identified information includes one or more

alphanumeric characters.

31. The system of claim 19, further comprising:

a storage device configured to store validation rules corresponding to values for fields of

payee account numbers and alteration rules corresponding to payee account number formats;

wherein the payment requests include payee account numbers;

wherein the processor is further configured to verify that the payee account numbers

conform to the stored validation rules, alter the payee account numbers according to the stored

alteration rules, and generate the payment directions to include the altered payee account

numbers;

wherein each of the altered account numbers includes a portion of at least one of a

payor's name, a payor's street address and a payor's zip code.

35. A system for processing payment information, comprising:

one or more networks;

a plurality of source stations, coupled to the one or more networks, each source station

including programmed instructions which cause that source station to transmit a respective set of

payment requests with each set correlating a respective plurality of payors to a plurality of

payees, each request containing payment information; and

a centralized remittance station, coupled to the one or more networks, and including

programmed instructions which cause the central remittance station to receive the respective sets

of payment requests transmitted from the plurality of source stations via at least one of the one or

more networks, and process the respective sets of payment requests to generate payment

directions so as to direct payment of each of the plurality of payees in accordance with the

processed payment information, and by a selected one of electronically crediting a bank account

of the applicable payee and generating a check or draft payable to the applicable payee.

36. The system of claim 35, wherein:

the centralized remittance station is further configured to process the payment

information to produce an eleven digit zip code for each of the plurality of payees, access a

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database based on the produced eleven digit zip code to locate a payee record and generate the

payment directions for paying that payee in accordance with the located payee record.

39. The system of claim 35, wherein the payment information includes an account number, and

further comprising:

        a database of alteration rules indicating a format for payee account numbers;

        wherein the centralizing remittance station transforms the account number into an altered

account number according to the alteration rules and generated payment advice including the

altered account number.

40. The system of claim 35, wherein the payment information includes an account number, one

of the plurality of payees has a plurality of remittance centers, and the centralized remittance

station is further configured to process the account number contained in the payment request to

pay the one payee, to identify one of the plurality of remittance centers, and to generate the

payment advice so as to direct payment to the one remittance center.

41. An article of manufacture for electronically processing bill payment requests, the article of

manufacture comprising:

        a computer readable medium; and

        computer programming stored on the medium;

wherein the stored computer programming is configured to be readable from the computer readable medium by at least one computer to thereby cause the at least one computer to operate so as to:

receive a respective set of payment requests electronically from each of a plurality of independent sources, each set of payment requests being transmitted by a respective one of said independent sources and corresponding to a respective plurality of payors requesting payments to one or more payees; and

process the received payment requests at a remittance processing center having a database including payee information for each of a plurality of payees to generate payment directions so as to direct payment of applicable payees by a selected one of electronically crediting a bank account of the applicable payee and generating a check or draft payable to the applicable payee;

wherein electronic crediting is only selectable if the applicable payee is one of the plurality of payees.

42. An article of manufacture for electronically processing bill payment requests, the article of manufacture comprising:

a computer readable medium; and

computer programming stored on the medium;

wherein the stored computer programming is configured to be readable from the computer readable medium by at least one computer to thereby cause the at least one computer to operate so as to:

receive a respective set of payment requests electronically from each of a plurality of independent sources, each set of payment requests being transmitted by a respective one of said independent sources and requesting payments to one or more of a plurality of payees on behalf of a respective plurality of payors, a first of the respective sets of payment requests being in a first format and a second of the respective sets of payment requests being in a second format, different from the first format;

process the received payment requests at a remittance processing center having a database including payee information for each of the plurality of payees to normalize the first and the second respective sets of payment requests to correspond to a third format and generate payment directions based upon the normalized first and second respective sets of payment requests and the payee information so as to direct payment of applicable payees.

43. The article of manufacture according to claim 41, wherein:

a first of the respective sets of payment requests is received in a first format; and

processing includes normalizing the first respective set of payment requests to correspond to a normalized format and generating the payment directions based upon the normalized first respective payment requests.

44. The article of manufacture according to claim 41, wherein each of the respective sets of payment requests is received as a batch file.

47. The article of manufacture according to claim 41, wherein:

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each of the received payment requests includes payment information having at least one of a name, a street address, a city and state, and a zip code of the payee to be paid; and

the computer programming is further readable to cause the at least one computer to process at least a portion of the payment information, other than a received zip code, to identify an eleven digit zip code for the payee to be paid, and to access the database based on the identified eleven digit zip code to locate the applicable payee information.

48. The article of manufacture according to claim 41, wherein:

a first of the applicable payees has a plurality of payment remittance centers and a first of the payment requests includes information identifying an account number with the first payee; and

the computer programming is further readable to cause the at least on computer to:

identify one or more alphanumeric characters in the account number,

select one of the plurality of remittance centers based upon the identified alphanumeric characters, and

generate the payment so as to direct payment advice to the one remittance center.

49. The article of manufacture according to claim 41, wherein:

each of the payment requests includes an account number; and

the computer programming is further readable to cause the at least one computer to:

determine if the account number conforms with validation rules corresponding to payee values for fields of account numbers;

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transform the validated account number into an altered account number according to

alteration rules corresponding to account numbers, and

transmit the altered account number to the applicable payee to notify the applicable payee

of payment based on the payment directions.

50. An electronic bill payment system for processing payment requests, comprising:

an input port for electronically receiving a respective set of payor requests to pay

applicable payees from each of a plurality of separate sources, each respective set of payment

requests being associated with a respective plurality of payors;

a data base configured to store records associated with a plurality of payees; and

a processor in communication with the input port and the data base, and having

programmed instructions which cause the processor to process the sets of payment requests to

generate payment directions so as to direct payment of the applicable payees by a selected one of

electronically crediting a bank account of the applicable payee and generating a check or draft

payable to the applicable payee; wherein a record is added to the database for each of the

applicable payees not associated with the stored records.